

ORDINANCE NO. 6

SERIES 2015

AN ORDINANCE OF THE TOWN COUNCIL OF CRESTED BUTTE SUBMITTING TO THE REGISTERED ELECTORS AT AN ELECTION TO BE HELD ON NOVEMBER 3, 2015, THE QUESTION OF WHETHER THE TOWN OF CRESTED BUTTE TAXES SHALL BE INCREASED BY UP TO \$500,000 ANNUALLY BEGINNING ON JANUARY 1, 2016, AND BY WHATEVER AMOUNTS ARE RECEIVED THEREAFTER, WITH A SALES TAX AND USE TAX OF ONE-HALF OF A PERCENT (0.5%, OR FIVE CENTS ON EACH \$10.00 PURCHASE) TO PROVIDE REVENUE FOR PARKS AND RECREATION FACILITY MAINTENANCE, PARKS AND RECREATION CAPITAL AND PROGRAMS AND TRAILS AND SAID INCREASE IN USE TAX TO BE APPLIED AS IT ALWAYS HAS BEEN UNDER THE CRESTED BUTTE MUNICIPAL CODE; SETTING FORTH THE BALLOT TITLE; PROVIDING FOR THE CONDUCT OF THE ELECTION; AND AMENDING CERTAIN PROVISIONS OF THE CRESTED BUTTE MUNICIPAL CODE IF A MAJORITY OF VOTERS APPROVE THE BALLOT ISSUE.

WHEREAS, the Town of Crested Butte, Colorado (the "Town") is a home rule municipality duly and regularly organized and now validly existing as a body corporate and politic under and by virtue of the constitution and laws of the State of Colorado;

WHEREAS, the electors of the Town adopted the Home Rule Charter of the Town of Crested Butte, Colorado (the "Charter") on November 5, 1974;

WHEREAS, Section 12.1 of the Charter provides that the Town Council may levy and collect taxes, including, without limitation, sales taxes and use taxes for municipal purposes by ordinance after approval by a majority of the registered electors of the Town voting at a regular or special election;

WHEREAS, under Section 5.7 of the Charter, the Town Council shall have the power to submit at a general or special election any ordinance or question to a vote of the registered electors of the Town;

WHEREAS, Section 1-41-103, C.R.S. provides that a local government question under Article X, Section 20 of the Colorado Constitution, commonly known as the "TABOR Amendment," including, but not limited to, approval of a new tax, may be submitted to the registered electors of the Town at an election to be held on the first Tuesday of November in each odd-numbered year;

WHEREAS, pursuant to Section 2.2 of the Charter, the Town Council finds and determines that there should be submitted to the registered electors of the Town, at an election to be held on November 3, 2015, in conjunction with the coordinated election to be held on that date, as a referred measure, the question of whether effective January 1, 2016, the Town should adopt a new 0.5% increase to the Town's sales tax and use tax; and

WHEREAS, Section 31-11-111(2), C.R.S., provides that the Town Council or its designee shall fix a ballot title for the referred measure set forth in this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CRESTED BUTTE, COLORADO, THAT,

Section 1. Amendments to the Municipal Code.

1.1 **Amending the Sales Tax Rate in Section 4-2-40.** The sales tax rate of "4.0%" contained in Section 4-2-40(a) of the Code is hereby amended to read "4.5%."

1.2 **Amending the Distribution Requirements Contained in Section 4-2-40.** Subsection (c) of Section 4-2-40 of the Code is hereby deleted and replaced with a new subsection that shall read as follows:

"(c) Distribution.

(1) Except as specified in this Subsection, the Town shall distribute the proceeds generated from 4% of the 4.5% sales tax on a formula allocating twenty-five percent (25%) thereof to local transportation services, and allocating the remaining seventy five percent (75%) thereof to the Town's General Fund and Capital Fund at the discretion of the Town Council, based on the projected operational and capital needs of the Town for the ensuing year. Such allocation shall occur as a part of the Town's annual budget process, subject to public hearing, and adopted by resolution on or before the final day for the certification of the ensuing year's property tax levy to the County. Sales tax revenues may also be reallocated during the budget year at the discretion of the Town Council in accordance with the Town's budget policy addressing recessionary circumstances or other unanticipated revenue shortfalls.

(2) Except as specified in this Subsection, the Town shall distribute proceeds from the 0.5% parks and recreation sales tax on a formula allocating one hundred percent (100%) thereof to parks and recreation facility maintenance and parks and recreation capital programs and trails. Allocation within such areas shall occur as a part of the Town's annual budget process, subject to public hearing, and adopted by resolution on or before the final day for the certification of the ensuing year's property tax levy to the County. Sales tax revenues may also be reallocated in such areas during the budget year at the discretion of the Town Council in accordance with the Town's budget policy addressing recessionary circumstances or other unanticipated revenue shortfalls."

1.3 **Amending the Use Tax Rate in Section 4-3-40.** The use tax rate of

“4.0%” contained in Section 4-3-40(a) of the Code is hereby amended to read “4.5%.”

1.4 **Severability.** If any section, sentence, clause, phrase, word or other provision of this ordinance is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases, words or other provisions of this ordinance, or the validity of this ordinance as an entirety, it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of any section, sentence, clause, phrase, word or other provision.

1.5 **Savings Clause.** Except as hereby amended, the Crested Butte Municipal Code, as previously amended, shall remain valid and in full force and effect. Any provision of any ordinance previously adopted by the Town Council that is in conflict with this ordinance is hereby repealed as of the enforcement date hereof.

Section 2. Notice of Election. A general municipal election shall be held on Tuesday, November 3, 2015 in connection with the coordinated election that is to be held that day. At the election there shall be submitted to the vote of the registered electors of the Town, as a referred measure under Article X, Section 20 of the Colorado Constitution and Section 31-11-111(2), C.R.S., the ballot issue hereinafter set forth (the “**Ballot Issue”). At the election, the official ballot, including early voters’ ballots shall state the substance of the Ballot Issue to be voted upon and, as so stated, shall constitute the ballot title, designation, and submission clause. At such election each registered elector of the Town voting at the election shall be given the opportunity to indicate his or her choice on the Ballot Issue, which shall include the following form:**

PARKS, RECREATION AND TRAILS BALLOT ISSUE:

SHALL THE TOWN OF CRESTED BUTTE TAXES BE INCREASED BY UP TO \$500,000 ANNUALLY BEGINNING ON JANUARY 1, 2016, AND BY WHATEVER AMOUNTS RECEIVED THEREAFTER, WITH A SALES TAX AND USE TAX OF ONE-HALF OF A PERCENT (0.5%, OR FIVE CENTS ON EACH \$10.00 PURCHASE) FOR THE PURPOSES OF PROTECTING AND ENHANCING QUALITY OF LIFE BY:

- 1) IMPROVING, MANAGING AND MAINTAINING PARKS SUCH AS TOWN PARK; RECREATIONAL FACILITIES SUCH AS BIG MINE ICE ARENA; AND BIKING, HIKING AND WALKING TRAILS;**
- 2) PROVIDING RECREATIONAL PROGRAMMING FOR YOUTH AND ADULT SPORTS LIKE SOCCER, HOCKEY, SOFTBALL AND BASEBALL; AND**
- 3) PLANNING AND CREATING NEW PARKS, CAMPGROUNDS, RECREATIONAL FACILITIES AND TRAILS**

WITH ALL EXPENDITURES SUBJECT TO AN INDEPENDENT AUDIT, WITH ALL USE TAX CONFORMING TO THE CRESTED BUTTE MUNICIPAL CODE; AND SHALL THE TOWN BE AUTHORIZED TO

COLLECT, RETAIN AND SPEND SUCH REVENUE AND ANY EARNINGS THEREON WITHOUT LIMITATION OR CONDITION AS A VOTER-APPROVED REVENUE CHANGE UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?

☐ YES - IN FAVOR OF THE INCREASE

☐ NO – OPPOSED TO THE INCREASE

Section 3. In connection with the fixing of the ballot title for the Ballot Issue, the Town Council finds and determines:

- (1) the Town Council has considered the public confusion that might be caused by misleading ballot titles;
- (2) the general understanding of the effect of a “yes” of “no” vote on the Ballot Issue will be clear to the electors;
- (3) the ballot title for the Ballot Issue will not conflict with those titles selected for any other measure that will appear on the ballot at the November 3, 2015 general election, to be held as a coordinated election; and
- (4) the ballot title for the Ballot Issue correctly and fairly expresses the true intent and meaning of the measure.

Section 4. If a majority of the votes cast at the election shall be for the Ballot Issue set forth in Section 2 of this ordinance, the amendments to the Code set forth in Section 1 of this ordinance shall be deemed to have been adopted and shall become effective on January 1, 2016, and on such date the Town shall be authorized to collect, retain and expend the full amount of the tax revenues collected by the Town as a result of the new sales tax and new use tax rates approved by the Ballot Issue separate and apart from any other expenditures of the Town that may be limited pursuant to Article X, Section 20 of the Colorado Constitution, any other law or any other state restriction on the Town’s fiscal year spending, and the increased tax revenues authorized for collection, retention and expenditure by the passage of the Ballot Issue shall not be counted in any such spending limitation. If a majority of the votes cast at the election shall be against the Ballot Issue, the amendments to the Code set forth in Section 1 of this ordinance shall be deemed to have been defeated and such amendments to the Code shall be void *ab initio*.

Section 5. The election on November 3, 2015 to consider the Ballot Issue shall be conducted as a coordinated election with Gunnison County. The Gunnison County Clerk and Recorder shall conduct the election on behalf of the Town. Pursuant to Section 2.1 of the Charter, the election shall be conducted under the Uniform Election Code of 1992. The cost of the election with respect to the Ballot Issue shall be paid for from the Town’s general fund.

Section 6. The Town Clerk shall serve as the designated election official of the Town for purposes of performing acts required or permitted by law in connection with the election on the Ballot Issue and shall take such action as may be required to comply with all applicable laws

pertaining to the conduct of the election.

Section 7. The Town Council finds, determines and declares that this ordinance is necessary and proper for the safety, health, welfare, order, comfort and convenience of Crested Butte and its inhabitants.

Section 8. The Town Council finds, determines and declares that it has the power to adopt this ordinance pursuant to the authority granted to home rule municipalities by Article XX of the Colorado Constitution and the powers contained in the Charter.

Section 9. Pursuant to Section 5.1(b) of the Charter, this ordinance is not subject to the registered electors' reserved power of referendum.

Section 10. Any election contest arising out of the Ballot Issue or the election concerning the order of the ballot or the form or content of the ballot title shall be commenced pursuant to Section 1-11-203.5, C.R.S.

Section 11. The Town Clerk, or the coordinated election official if so provided by intergovernmental agreement, shall give or cause to be given the notice of election required by Section 1-5-205, C.R.S. Additionally, the Town Clerk shall cause the notice required by Section 20(3)(b) of Article X of the Colorado Constitution to be prepared and delivered in accordance with the requirements of applicable law.

Section 12. The officers of the Town are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this ordinance. All actions previously taken by the officers of the Town with respect to the Ballot Issue are hereby ratified, confirmed and approved.

Section 13. This ordinance shall become effective in accordance with the provisions of the Charter.

INTRODUCED, READ AND SET FOR PUBLIC HEARING THIS 4th DAY OF August, 2015.

ADOPTED BY THE TOWN COUNCIL UPON SECOND READING IN PUBLIC HEARING THIS 18th DAY OF August, 2015.

TOWN OF CRESTED BUTTE, COLORADO

By: Aaron J. Huckstep
Aaron J. Huckstep, Mayor

ATTEST:

Lynelle Stanford
Lynelle Stanford, Town Clerk

(SEAL)

